

## BEFORE THE BOARD OF COSMETOLOGY

## STATE OF IDAHO

In the Matter of the License of: )  
 ) Case No. COS-2009-22  
 TAMARA L. DUCOTE, )  
 License No. CI-17120, ) **STIPULATION AND**  
 ) **CONSENT ORDER**  
 Respondent. )  
 \_\_\_\_\_ )

WHEREAS, information has been received by the Idaho State Board of Cosmetology (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Tamara L. Ducote ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of cosmetology in the State of Idaho in accordance with title 54, chapter 8, Idaho Code.

A.2. The Board has issued License No. CI-17120 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 8, Idaho Code and the Board's rules at IDAPA 24.04.01, *et seq.*

A.3. On May 1, 2006, Respondent pled guilty to Possession of a Controlled Substance With Intent to Deliver, a felony, in State v. Warren, Elmore County Case No. CR-2005-1050. On June 20, 2006, a withheld judgment was entered against Respondent in Case No. CR-2005-1050 and Respondent was, among other things, placed on supervised probation for 10 years.

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A.4. On or about February 28, 2007, Respondent submitted an application for license renewal to the Bureau of Occupational Licenses. On the application, Respondent answered "No" to the question, "Since the date of your last application have you (or any owner of the named business entity) pled guilty, received a conviction, finding of guilt, withheld judgment, or suspended sentence for any felony in this or any other jurisdiction?" As of that date, however, Respondent had pled guilty to and received a withheld judgment for a felony.

A.5. On April 7, 2008, Respondent pled guilty to a felony probation violation in Case No. CR-2005-1050 and was ordered to serve 60 days in jail. On May 14, 2008, the court entered an order revoking probation and committing Respondent to 10 years in prison, 4 years fixed and 6 years indeterminate, but placed Respondent on a rider for 180 days. At the conclusion of the 180-day rider, the court reinstated Respondent's probation for 9 years and informed Respondent that this was her final opportunity at probation.

A.6. On or about February 11, 2009, Respondent submitted an application for license renewal to the Bureau of Occupational Licenses. On the application, Respondent answered "Yes" to the question, "Since the date of your last application have you (or any owner of the named business entity) pled guilty, received a conviction, finding of guilt, withheld judgment, or suspended sentence for any felony in this or any other jurisdiction?" Respondent subsequently reported to the Bureau of Occupational Licenses the November 17, 2008, Order Suspending Sentence and Reinstating Probation in Case No. CR-2005-1050.

A.7. The allegations of Paragraphs A.3 through A.6, if proven, would violate the laws governing the practice of cosmetology, specifically Idaho Code §§ 54-816(1) (conviction of a felony) and 54-816(7) (fraudulent application for licensure). Violations of these laws constitute grounds for disciplinary action against Respondent's license to practice cosmetology in the State of Idaho.

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## **B. Waiver of Procedural Rights**

I, Tamara L. Ducote, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.3 through A.6. I further understand that these allegations constitute cause for disciplinary action upon my license to practice cosmetology in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of cosmetology in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

## **C. Stipulated Discipline**

C.1. Respondent is hereby issued a reprimand.

C.2. Respondent shall pay attorney fees incurred by the Board in this matter in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within sixty (60) days of the entry of the Board's Order.

C.3. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

## **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

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D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited

to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

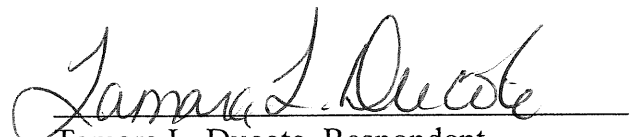
c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to us or the Board rejects this Stipulation, it will be of no effect.

DATED this 19 day of June, 2009.

  
Tamara L. Ducote, Respondent

Thank You.  
Please contact me if there  
are any further questions  
208 412 6136

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 22 day of June, 2009.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By Karin Magnelli  
Karin Magnelli  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-816, the foregoing is adopted as the decision of the Board of Cosmetology in this matter and shall be effective on the 5<sup>th</sup> day of October, 2009. IT IS SO ORDERED.

IDAHO STATE BOARD  
OF COSMETOLOGY

By Mary J. Lambert  
~~Eric Negaard, Chair~~  
Mary Lambert, Vice-Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of October, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Tamara L. Ducote  
315 Baker Drive  
Mountain Home, ID 83647

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Karin Magnelli  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
Tara Cory, Chief  
Bureau of Occupational Licenses